



**Sentencing Policy Study Committee**  
**Memorandum of Meeting Held on October 27, 2004**

**Members in Attendance**

Rep. William Crawford, Indiana House of Representatives  
Hon. Richard Good (Ret.), On behalf of Chief Justice Shepard  
Sen. Glenn Howard, Indiana Senate  
Sheila Hudson, Allen Co. Community Corrections  
Steve Johnson, Executive Director Indiana Prosecuting Attorney's Council  
Larry Landis, Executive Director Indiana Public Defender Council  
Sen. David Long, Sentencing Policy Study Committee Chair, Indiana Senate  
Todd McCormack, Hendricks Co. Probation  
Rep. Luke Messer, Indiana House of Representatives  
Hon. Tanya Walton Pratt, Marion Co. Superior Court  
Hon. Judith Proffitt, Hamilton Co. Circuit Court  
Evelyn Ridley-Turner, Commissioner Indiana Department of Correction  
Hon. Randall Shepard, Chief Justice Indiana Supreme Court  
Robin Tew, Executive Director Indiana Criminal Justice Institute

**Members Not in Attendance**

Hon. David Matsey, Starke Co. Circuit Court  
Hon. James Williams, Union Co. Circuit Court

**Others in Attendance**

Jim Hmurovich, Consultant to SPSC  
Mark Goodpaster, Legislative Services Agency  
Andy Hedges, Legislative Services Agency  
K.C. Norwalk, Legislative Services Agency

**Memorandum**

Sentencing Policy Study Committee Chair, Sen. David Long, called the meeting to order at 10:05 a.m. Sen. Long stated that a quorum was present and that this was the final Committee meeting of the year. Committee members were thanked for their time.

As a result of discussions from the October 20, 2004, meeting of the Committee, Marilyn Cage from the Bureau of Motor Vehicles spoke about the Bureau's license reinstatement fees. Ms. Cage stated that the fees are statutorily set and directly result from driving without insurance. Ms. Cage further stated that there currently was no discretion to suspend these fees. The money collected from the fees (yearly not known, but approximately \$6 million currently in the fund) pays for computer services and insurance verifications upon the registering of automobiles. Sen. Long thanked Ms. Cage and the BMV for their time and input. Upon the Committee's consent, the Legislative Services Agency was directed to draft legislation containing judicial discretion to suspend or modify the fees.

By consent, the Committee also agreed to amend page 90 of the report by adding “study” after “forensic diversion” and by removing “Juvenile Law Commission” and to revise the final paragraph on page 3 of the report.

By roll call, the Sentencing Policy Study Committee adopted eleven (11) recommendations and the final report itself. The recommendations are attached to this memorandum. Pursuant to IC 5-14-1.5-4, the record of all votes taken by individual members was:

Member	Rec 1	Rec 2	Rec 3	Rec 4	Rec 5	Rec 6	Rec 7	Rec 8	Rec 9	Rec 10	Rec 11	Rec Rpt
Crawford	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Howard	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Hudson	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Johnson	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Landis	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Matsey (1)												
Messer	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
McCormack	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Ridley-Turner	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Pratt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Proffitt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Shepard (2)	Y	AB	Y	Y	Y	Y	Y	Y	Y	AB	Y	Y
Tew	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Williams (1)												
Long, Chair	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

- (1) Schedule conflict prohibited attendance at the meeting  
(2) Richard P. Good, Jr. voted as Chief Justice Shepard’s official designee

AB = Abstained from the vote

Sen. Long and Sen. Howard agree to co-author legislation in the Senate to extend the term of the Committee, while Rep. Crawford and Rep. Messer agreed to do the same in the House. Sen. Long stated that a comprehensive review of the Indiana Code would be the obvious next step for the Committee. Sen. Long thanked everyone for their work and input and adjourned the meeting.

## RECOMMENDATIONS OF THE SENTENCING POLICY STUDY COMMITTEE

- 1) Development of a "Purpose Statement" for the criminal code to provide a clear statement of purpose and philosophy that promotes public safety and the use of appropriate sanctions based upon principles of reformation. The "Purpose Statement" emphasizes the importance of policy integration and cooperation among the various components of the criminal justice and correctional system while setting forth the means and goals to be considered in establishing criminal penalties and imposing sentence without creating a cause of action or superceding any statute, and not being used in any litigation to obtain any form of relief. The Committee approved PD 3532, which is a proposed purpose statement bill draft;
- 2) Statutory changes to the criminal code that require the State prove the existence of aggravating circumstances beyond a reasonable doubt before a person convicted of a felony may receive a sentence greater than the presumptive, unless the person has one or more prior un-related convictions; 2) requires the defendant be provided with notice of the State's intention to seek a sentence greater than the presumptive; 3) requires a jury to reconvene to hear evidence on aggravating circumstances if a person is convicted of a felony in a jury trial; and 4) permits a defendant to waive their right to have a jury determine the existence of any aggravating circumstances. The Committee approved PD 3597, which is a bill draft incorporating these proposed changes;
- 3) Development of a consistent method for the Courts, County Sheriff or Community Corrections Program to award and deprive time-based credit;
- 4) Extend recognition and support to the work of the Risk Assessment Task Force of the Indiana Offender's Reintegration Project as the authoritative forum to develop common risk assessment processes for use among the various components of the criminal justice and corrections system;
- 5) The expansion and promotion of alternative institutional placements, including without limitations, work release, electronic monitoring and transitional housing as intermediate sanctions that would be accessible to each Court with criminal jurisdiction, as well as the support and use of other technology to assist in monitoring offenders in the community so as to enhance public safety and reduce admissions to the Department of Correction;
- 6) The clarification of the existing statute to permit the Court to order execution of all or part of a probationer's suspended sentence if a probationer has violated a condition of probation. This ability would provide greater flexibility to the Court to manage offenders safely in the community and thereby decrease commitments to the Department of Correction. The Committee approved PD 3042 which is a bill draft incorporating these proposed changes;
- 7) Modify the reinstatement fees for driving offenses by the Bureau of Motor Vehicles and/or empower Courts to modify or waive the fees so as to decrease the likelihood that drivers who cannot afford the incremental reinstatement fees do not eventually become incarcerated only for that offense;
- 8) Amend the existing statute that allows a Court to order an offender on home detention to wear a monitoring device to transmit the location of an offender at all times. The Committee approved PD 3673 which is a bill draft incorporating these proposed changes;

- 9) The modification of the statute to permit a Court to hold a new probation hearing and modify a probationer's conditions of probation at any time during the probationary period. The Committee approved PD 3040 which is a bill draft incorporating this proposed change;
- 10) Amendment of the existing statute to require a jury to determine whether a person is a repeat sexual offender if a jury tried a person. The present statute requires the Court to determine whether a person is a repeat sexual offender if the person received a bench trial or a trial by jury. The Committee approved PD 3041 which is a bill draft incorporating this proposed change;
- 11) The use of alternative institutional placements as both a "step up" and "step down" process.